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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

RONNIE HAMMONTREE,

Defendant and Appellant.

E056438

(Super.Ct.No. FSB1001454)

OPINION

APPEAL from the Superior Court of San Bernardino County. Kyle S. Brodie,
Judge. Affirmed.

Cindi B. Mishkin, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Pursuant to a plea agreement, defendant and appellant Ronnie Dale Hammontree
pled guilty to second degree burglary (Pen. Code, § 459) and admitted that he had served

four prior prison terms (§ 667.5, subd. (b)).¹ The trial court placed him on probation for three years on certain terms. Defendant subsequently admitted that he violated his probation, and the court revoked his probation. The court sentenced him to five years four months in state prison and awarded him 485 days of presentence credits (319 actual plus 166 conduct).

Defendant subsequently filed a motion with the trial court, in propria persona, to reduce his sentence (the motion). The court denied the motion. Defendant filed a notice of appeal and request for certificate of probable cause, indicating he wished to challenge the denial of the motion. The court denied the request for certificate of probable cause. We affirm.

PROCEDURAL BACKGROUND

On or about March 23, 2012, defendant filed a motion to reduce his sentence, based upon the problem of overcrowding in California prisons, and his desire to take care of his mother. In his motion, defendant cited Penal Code section 1170, Title 18 United States Code section 3626, California Rules of Court, rule 4.452, and various cases. The trial court denied the motion.

DISCUSSION

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of

¹ By order dated September 27, 2012, we took judicial notice of the record in a prior appeal. (*People v. Hammontree* (Nov. 28, 2012, E053864) [nonpub. opn.].)

the case, a summary of the facts, and the following potential arguable issues: (1) whether the trial court abused its discretion when it denied defendant's petition to reduce his sentence under Title 18 United States Code section 3626; (2) whether the court abused its discretion when it denied his petition to reduce his sentence under Penal Code section 1170; and (3) whether the court abused its discretion by failing to reduce his sentence under *Brown v. Plata* (2011) 563 U.S. __ [131 S.Ct. 1910] (prison overcrowding). Counsel has also requested this court conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST
Acting P. J.

We concur:

McKINSTER
J.

RICHLI
J.